

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

IN THE MATTER OF ELIGIBILITY CRITERIA)
FOR THE MARICOPA COUNTY REGIONAL)
HOMELESS COURT)
_____)

ADMINISTRATIVE ORDER
NO 2013-065

WHEREAS, Maricopa County Regional Homeless Court ("MCRHC") was established by Superior Court Administrative Order No. 2012-128 on September 14, 2012, pursuant to A.R.S. § 22-601(A) and continued by Superior Court Administrative Order No. 2013-063; and

WHEREAS, A.R.S. § 22-601(B) requires the Presiding Judge of Superior Court ("Presiding Judge") to establish eligibility criteria for referral to a homeless court pursuant to A.R.S. § 22-601(A); and

WHEREAS, Superior Court Administrative Order No. 2012-128 established initial eligibility criteria as required by A.R.S. § 22-601(B); and

WHEREAS, the MCRHC Governing Council ("Council") was established by Superior Court Administrative Order No. 2012-128 and continued by Superior Court Administrative Order No. 2013-063 to manage day-to-day operations, and recommend eligibility criteria modifications to the Presiding Judge; and

WHEREAS, the Council has recommended additional eligibility requirements to those requirements adopted in Superior Court Administrative Order No. 2012-128,

IT IS ORDERED establishing the following eligibility criteria for referring offenses, citations, and complaints to MCRHC:

- A. Eligibility. Eligible offenses, citations, and complaints filed against an eligible person in a Justice of the Peace Court or Municipal Court in Maricopa County, Arizona from and after the date of this Administrative Order may be heard by MCRHC if the following eligibility criteria are met:
 - 1. Eligible Offense. Any statutory misdemeanor offense, civil offense, petty offense, civil traffic offense, or other offense charged under a city or town code filed in a limited jurisdiction court in Maricopa County, Arizona that is received by a homeless person is eligible to be heard in MCRHC if approved by a judge that has jurisdiction over the offense.

2. Eligible Person

- a. A person is eligible to participate in MCRHC if a judge of a court having jurisdiction over the case determines the person is homeless either at the time the offense was alleged to have occurred or at the time the referral to MCRHC is made, and the judge of the court with jurisdiction consents to the matter being referred to MCRHC ("eligible person").
- b. An eligible person must also:
 - (1) Be in regular contact with their provider or agency; and
 - (2) Be in compliance with all requirements set by provider or agency; and
 - (3) Have completed or be near completion of all requirements; and
 - (4) Either:
 - i. Have income through employment or benefits; or
 - ii. Have applied for benefits; or
 - iii. Be actively seeking employment; and
 - iv. Be no longer "living a homeless lifestyle."

3. Disqualifications. MCRHC is established primarily to resolve limited jurisdiction court offenses when a homeless person has previously been found guilty or responsible for an offense in a court having jurisdiction to adjudicate the offense. Pre-adjudicated offenses may also be referred to MCRHC if the case is not going to proceed to trial and the referring judge determines the referral will ameliorate the person's homeless status. Offenses are not eligible to be referred to MCRHC if:

- a. A victim has invoked their rights;
- b. Restitution may be sought in the case; or
- c. A prosecuting attorney has appeared in the case and files an objection to the pre-adjudicated matter being referred to MCRHC.

4. Criminal History

- a. The MCRHC Coordinator ("Coordinator") or designee shall perform any background check necessary to determine whether the person meets the eligibility criteria and provide any information relevant to the person's eligibility to the MCRHC Presiding Judge or designee to determine eligibility, as needed.

- b. A person is not eligible to participate in MCRHC if the person has any of the following:
 - (1) An outstanding felony warrant or pending felony case in any court;
 - (2) A criminal charge with a mandatory sentencing requirement; or
 - (3) A felony conviction committed within ten (10) years immediately preceding the date of the eligible misdemeanor offense, civil offense, petty offense, civil traffic offense, or offense. This subsection does not apply to prior drug related or driving under the influence (DUI) felony convictions.
- 5. Notice to Prosecutor. Pursuant to A.R.S. § 22-601(D), the court in which any citations and/or complaints were filed must notify the prosecuting attorney of the referral to MCRHC of any pre-adjudicated or criminal cases and shall indicate that this has been done by checking the appropriate box on the *Referring Court Approval Form* or *Judicial Officer Referring Form*. (The forms may be obtained by contacting the Coordinator.)
- 6. Cases Referred in Error. In the event a case is referred to MCRHC in error, the case will be referred back to the court of origin.
- B. Referral Requirements. Any court or provider/agency desiring to participate in MCRHC may participate by satisfying the following:
 - 1. Provider Referral Requirements:
 - a. Referrals. A person and offense eligible to be heard by MCRHC may be referred to MCRHC by a provider or agency authorized by the Council to submit referrals.
 - b. Submittal Process. The provider or agency shall submit an *Application and Letter of Advocacy* to MCRHC that is approved and signed by the provider or authorized agent of an agency that is approved by the Council to participate in MCRHC. (The application is available by contacting the Coordinator.)
 - c. Provider List and Qualifications. The Council shall establish and approve a list of providers and agencies qualified to administer programs acceptable to MCRHC that ameliorate the homeless status of the person.

2. **Judicial Officer Referral Requirements.** Any Maricopa County Limited Jurisdiction Court Judicial Officer may refer an applicant to MCRHC by completing and submitting the *Judicial Officer Referral Form* to the Coordinator. The applicant must have a qualifying offense in the referring court. (The form is available by contacting the Coordinator.)
- C. **Program Requirements.** Each participating person shall complete the terms of their provider's program requirements and maintain all documents and records verifying proof of completion. The provider or agency shall monitor the progress of the person, and shall submit an *Application and Letter of Advocacy* to the Coordinator when the person has satisfactorily completed all or substantially all program terms.
- D. **Referring Court Approval.** Any Maricopa County Limited Jurisdiction Court judicial officer, that consents to an eligible offense being heard in MCRHC, shall complete and submit the *Referring Court Approval Form* to the Coordinator. (The form is available by contacting the Coordinator.) This form constitutes the court's approval for disposition of specified case(s) in MCRHC. After the case(s) is heard in MCRHC, a Court Order will be sent back to the court of origin to terminate the case and retain for their records.
- E. **Status Conference.** If it becomes impossible for the person to fully complete their provider's program requirements, or if other extraordinary circumstances exist that should be addressed by MCRHC, the provider, prosecutor, or participating person may request a status conference, with notice to all interested parties that have appeared in the case, to consider modifications to their program requirements or other appropriate action.
- F. **Court Hearing.** Upon the completion of an eligible person's program requirements, the Coordinator shall schedule a hearing at the direction of the MCRHC Presiding Judge or designee, and notify the court with the original offense, the provider and any prosecutor that has filed a notice of appearance or motion in MCRHC. The provider shall notify the participating person of the hearing.
- G. **Hearing Participation.** The provider or designee and participating person shall be present in person or by electronic means acceptable to MCRHC at any court hearing or status conference; provided, however, that such presence may be waived by the MCRHC Presiding Judge or the judge assigned to conduct the hearing for good cause shown.

H. Court Order. At the conclusion of the court hearing the assigned judge shall complete and sign an Order, in substantial compliance with the *MCRHC Disposition Order Form* (the form is available by contacting the Coordinator), and cause the completed Order to be filed and distributed as follows:

1. Original Order. A complete duplicate original copy of the Order shall be provided to the designated clerk or administrator of each court for entry and processing in each court as if the offenses over which the court has jurisdiction were fully adjudicated in that court.
2. Informal Record. A copy of the original signed Order shall be electronically retained in the office of the Coordinator. Such electronic record shall not constitute an official record of any court, shall not be subject to certification or authentication by the Coordinator or any other person, and shall not establish the basis for application of any record retention policy beyond the terms of any policies applicable to such unofficial records. This unofficial record may constitute evidence of action taken by MCRHC according to the terms of the Order in the event of destruction, damage or loss of the original record provided to the designated clerk or administrator of each participating court to the extent allowed by the *Arizona Rules of Evidence*.

IT IS FURTHER ORDERED establishing the following internal procedures to facilitate the operation of MCRHC:

- A. Judicial Officer Assignment. In accordance with A.R.S. § 22-601(B) any judicial officer in Maricopa County assigned to MCRHC has authority to adjudicate eligible offenses occurring within Maricopa County that are properly referred to MCRHC.
- B. Coordinator. MCRHC shall be staffed by the Coordinator designated by the Presiding Judge to serve in that position. The Coordinator shall coordinate all activities and actions of MCRHC with all participating limited jurisdiction courts in Maricopa County as assigned by the Presiding Judge and the MCRHC Presiding Judge.
- C. Records. A.R.S. § 22-602(A) directs that each court participating shall maintain jurisdiction of all cases referred to MCRHC, and accordingly all referring courts are required to record and maintain all official records with respect to all such cases referred. All records maintained by MCRHC are unofficial and maintained only to further the mission of MCRHC until the official records are filed in the individual referring court with jurisdiction.

IT IS FURTHER ORDERED this Administrative Order supersedes Superior Court Administrative Orders No. 2012-128 and 2012-129.

Dated this 17th day of May, 2013.

/s/ Norman J. Davis

Norman J. Davis
Presiding Judge

Original: Clerk of the Superior Court

Copies: Municipal Court Presiding Judges in Maricopa County
Justices of the Peace in Maricopa County
Raymond Billotte, Judicial Branch Administrator
Karen Westover, Deputy Court Administrator
Danna Quinn, Regional Courts Administrator
Margaret Sommer, Regional Homeless Court Coordinator
Municipal Court Administrators
Marty Vance, Justice Courts Administrator